

into the tunnel, said feed tube defining a feed path for a conduit for directing a conduit provided with perforations through the open end of the bag and into the bag [through which] in spaced relation to said bag exterior wall and the perforations in spaced relation  
5 to said venting, whereby the material in the bag [may be] is treated by forcing a media through the conduit and through the material in the bag followed by venting to the atmosphere.

#### REMARKS

10 Applicant is here offering amendments to the claims to simplify the issues for appeal. In page 3 of the 4/11/96 Office Action, the examiner states:

15 "Since the method claimed does not specify the particular positioning of the 'vent' in the bag, it is maintained that this noted opening of the bag would operate as such." [As understood the examiner contends that pipe 54 equates to applicant's conduit and the  
20 "inherent" opening surrounding the pipe is a vent.]

This same position is reiterated at page 5.

25 Independent Claims 1 and 6 are amended to establish that the conduit and vent are spaced to induce media flow through the material. Further the conduit in each claim is also positioned to be spaced from the exterior bag wall to further distinguish from the prior formed passages indicated as 32 in Fig. 4 and 56 in Fig.  
11.

30 The examiner considers there to be a space inherently created around Eggenmuller's vent tube 54. If such were the case, there

would be no incentive to provide the vent tubes with "a flap 54 in order to prevent penetration of air into the mass of food." (Col. 7, lines 57-61) If such an opening is inherent, the flap would not prevent air penetration. Nevertheless applicant provides a media inlet and vent outlet in spaced relation to cause media flow to pass through the bagged material. Accordingly, applicant has amended the claims to require such spaced relation.

As a further point that applicant wishes to comment on, the examiner contends that the provision of a vent in the bag adds nothing to the structure of the bag filling machine, pointing out that such adds no definitive attribute to the apparatus. (Page 6 of the office action) The examiner has equated the Eggenmuller exhaust vent tube 54 to applicant's media inflow conduit. Applicant's point is that applicant requires both an exhaust vent and a media inflow conduit and like Eggenmuller, applicant's disclosed system provides an exhaust vent (34) in the end of the bag. (From Eggenmuller Col. 7, lines 56 & 57: "A ventilating pipe 54 is provided at the end of the mass.") Eggenmuller, unlike applicant, does not provide a conduit that is continuous and fed from the machine into the material for circulating a media throughout the length of the bag, all in addition to the required exhaust vent.

From applicant's Claim 1:

"during the bag filling process directing a continuous perforated conduit from a feed tube

mounted on the machine and through the open  
end of the bag into the material contained in  
the bag --"

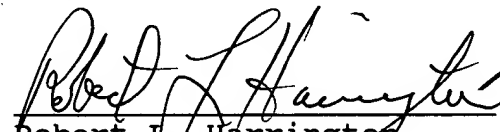
5 From applicant's Claim 6:

"a feed tube mounted to the tunnel and  
extended from the exterior of said tunnel --  
defining a feed path for a conduit --"

10 Taylor also does not feed conduit from a machine into a bag.  
He provides a continuous conduit but premounts the conduit prior to  
filling (if such can be referred to as filling). With the  
amendments and particularly as related to the positioning of the  
15 vent tube relative to the conduit, applicant believes that the  
claims are allowable over the cited art and if not considered such  
by the examiner, at least it overcomes the examiner's critique with  
respect to the location of the vent as noted above and places the  
claims in better condition for appeal. It is respectfully  
20 requested that the amendments proposed herein be entered.

Applicant here repeats the arguments with respect to the  
Cullen reference which is expected will be resolved on appeal to  
the Board of Appeals.


25 Respectfully submitted,

30   
Robert L. Harrington  
Attorney of Record  
Reg. No. 20,994

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as First Class Mail, in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on the date indicated below.

Date 6/2/96

  
Robert W. Harrington  
Attorney of Record  
Reg. No. 20,994